

# **Exhibit 10**

Alfonso Morales, M.D., 4/24/2012

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Spine Imaging MRI, L.L.C., a Minnesota  
limited liability company,  
Plaintiff,

vs.

Liberty Mutual Fire Insurance Company, a  
Wisconsin corporation, and Allstate  
Insurance Company, an Illinois corporation,  
Defendants,

and

Liberty Mutual Fire Insurance Company,  
Third-Party Plaintiff,

vs.

Eduardo Bullon, individually; Rafael  
Mendez, individually, Central Medical  
Clinic, LLC; Dr. Alfonso Morales, M.D.,  
individually; Northstar Radiology

Alfonso Morales, M.D., 4/24/2012

Page: 2

1 Corporation, P.A.; Dr. William Ford,  
2 M.D., individually and Dr. Hans Michael  
3 Castro, D.C., individually,  
4 Third-Party Defendants.

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11 DEPOSITION OF ALFONSO MORALES, M.D.

12 Taken April 24, 2012

13 Commencing at 9:05 a.m.

25 REPORTED BY: KELLEY E. ZILLES, RPR

1 Q. Okay. And what knowledge or understanding do  
2 you have as MRI machines compare to one another, in  
3 other words, a Fonar versus a Picker versus a Toshiba?

4 A. I think that's minutia, really. I mean, I think  
5 it's minutia to look at every single type of scanner,  
6 whether it's Toshiba or Siemens or GE. I think a  
7 scanner, as long as you have a good resolution and you  
8 can see the scans correctly, I think that's what I was  
9 looking at.

10 Q. Okay. And you made reference to getting a  
11 report of findings or an interpretation report done --

12 A. Yes.

13 Q. -- of the scan?

14 A. Yes.

15 Q. Okay. Is that one of the things you accept when  
16 you refer a patient of yours to Spine Imaging?

17 A. To have an adequate interpretation and  
18 professionally done, yes.

19 Q. Okay. Who do you expect that to come from?

20 A. At the time it was Dr. Ford, Dr. Johnson, there  
21 was another doctor that I can't remember his name.

22 Q. Okay. Would you ever refer a patient of yours  
23 to an MRI facility that did not provide a report of  
24 findings?

25 A. No.

1 Q. That's a given, in other words?

2 A. Yes.

3 Q. Is that fair?

4 A. Yeah, you have to have that.

5 Q. Okay. And does that report of findings have to  
6 come from a medical doctor who's a radiologist?

7 A. It has to be from a radiologist, yes.

8 Q. Okay. And so would it be fair to understand  
9 then when you determined you were going to refer  
10 patients of Central Medical to Spine Imaging that you  
11 knew Dr. Ford and/or Dr. Johnson would be interpreting  
12 those scans and you were satisfied they were competent  
13 radiologists?

14 A. That is correct, yes.

15 Q. And you were in fact counting on that?

16 A. Yes.

17 Q. Did you have any concern about the ownership of  
18 the MRI facilities you were referring patients of yours  
19 to?

20 A. No, that was not my business.

21 Q. What use are you making of the MRI scans and the  
22 report of findings issued to you by Spine Imaging?

23 A. What use?

24 Q. Yes.

25 A. It's important to know what is the anatomy and

1 A. I don't know what kind of relationship he has,  
2 no.

3 Q. Did you ever see any kind of contract or  
4 agreement between Spine Imaging and Dr. Ford?

5 A. No.

6 Q. I think you indicated earlier that to the extent  
7 that there were reports generated following some  
8 diagnostic testing done at Spine Imaging, that would  
9 come to you on Spine Imaging letterhead, is that  
10 correct?

11 A. Yes.

12 Q. Would that report be signed by a physician or  
13 some qualified person interpreting the, the results?

14 A. Yes.

15 Q. Do you recall on any of those reports that you  
16 would receive was there any indication that the person  
17 signing it was not an employee of Spine Imaging?

18 A. No.

19 Q. Was there any indication that the person signing  
20 those reports was somehow an independent contractor to  
21 Spine Imaging?

22 A. No.

23 Q. So looking at the report you would assume that  
24 that person worked for Spine Imaging, whoever was  
25 signing it?

1 A. That the MRI tech would call and say this is not  
2 understandable or can we do a better resolution. If  
3 they can't I would just send them somewhere else.

4 Q. So the, so the image would be provided to you,  
5 you'd have an opportunity to at least try to get it  
6 corrected, and if it couldn't get corrected you would  
7 send them somewhere else?

8 A. Yes.

9 Q. And do you recall doing that with Spine Imaging  
10 at all?

11 A. No, they had excellent resolution.

12 Q. Have you ever provided any medication to any of  
13 the patients that were undergoing scans?

14 A. Yes, some of them are claustrophobic or severely  
15 anxious so I have to give them something.

16 Q. Okay. How are you made aware of this  
17 claustrophobic or this anxiety that they are going  
18 through?

19 A. We were faxed something that the patient is  
20 claustrophobic or oversized, requires maybe some  
21 sedative.

22 Q. So that would come from Spine Imaging?

23 A. They would fax something, yeah, to us, yes.

24 Q. And did you ever prescribe some medication for  
25 any patients that weren't your patients that you

Alfonso Morales, M.D., 4/24/2012

Page: 214

1 referred to Spine Imaging?

2 A. Numerous times, yes.

3 Q. So you would prescribe medication for patients  
4 that were not your patients?

5 A. That were not my patients, yeah.

6 Q. And that would have been at the request of Spine  
7 Imaging?

8 A. Yes.

9 Q. And would you examine these patients?

10 A. No, I would just try to get a history from them  
11 of what's going on, are they already taking other  
12 medications, do they have any problems, and just go  
13 ahead and give them a very low dose sedative. I'm  
14 usually very conservative, so most of the time it worked  
15 very well, even if they were oversized I would give them  
16 a low dose.

17 Q. So you would talk with these patients?

18 A. No, no talking, no. I just get a history from  
19 the person who is faxing it, like from Jason or from one  
20 of the techs that's doing the MRI. Typically it would  
21 be one of the techs that would do that.

22 Q. Okay. So a technician would be there taking a  
23 medical history?

24 A. Yes.

25 Q. From the patient and then relaying that to you



Alfonso Morales, M.D., 4/24/2012

Page: 215

1 and requesting that you give some kind of medication for  
2 the purpose of --

3 A. Yes.

4 Q. -- relieving the anxiety for that particular  
5 patient going through the MRI scan?

6 A. Yes.

7 Q. And you would not have seen that patient?

8 A. No.

9 Q. You would not have reviewed any medical records  
10 relating to that patient?

11 A. No.

12 Q. You would have relied upon a history that would  
13 have been taken by an MRI technician?

14 A. Yes.

15 Q. Okay. I have no further questions.

16 FURTHER EXAMINATION

17 BY MR. LOWDEN:

18 Q. Mr. Morales, again, Michael Lowden. I just have  
19 a few follow-up questions. I want to jump on that  
20 issuing medications for some of the Spine Imaging  
21 patients. Did you get paid for that?

22 A. No.

23 Q. Did you have some kind of an agreement with  
24 Spine Imaging that you would provide that medical  
25 service?

1 A. Did that on my own. And I have other practices  
2 that, that I knew were LLC's that I never, I thought  
3 PLLC was something attorneys used.

4 Q. Okay. But my question was, you didn't have the  
5 advice of counsel at that time?

6 A. No.

7 Q. You were asked questions about contrast, MRI's  
8 with contrast. You don't send patients down to Spine  
9 Imaging, but are you aware whether Spine Imaging  
10 performs MRI's with contrast or not?

11 A. I'm not aware of that, no.

12 Q. The, in terms of the anxious or obese patient  
13 line of questioning. You would get a fax and then you  
14 would have a telephone call with a tech at Spine  
15 Imaging, that's how that would work, right?

16 A. Yes.

17 Q. Okay. And someone asked you whether you would  
18 actually examine the patient and you said no, it was the  
19 telephone call. But who would actually deliver the  
20 medication?

21 A. Oh, I would prescribe the medication through a  
22 pharmacy, we used to have a pharmacy down, or upstairs  
23 in the first floor, and I would write the prescription  
24 to give them a tablet or half a tablet of something.

25 Q. Mm-hmm.

1 A. And to sedate the patient. Usually it was a  
2 safe medication and they would give me the weight of the  
3 patient to make sure I was giving an adequate dose. And  
4 then the receptionist would come up and pick it up or  
5 Jason would come up and pick it up or they would send  
6 somebody to come up and pick it up.

7 Q. So how many times during the 12 years has that  
8 happened?

9 A. I can't tell you how many times, but it happened  
10 several times.

11 Q. More than a hundred?

12 A. I don't think a hundred.

13 Q. All right. So less than a hundred?

14 A. Much less, yes.

15 Q. Okay. More than ten?

16 A. More than ten.

17 Q. All right. And more than 50?

18 A. Not more than 50.

19 Q. All right. So somewhere between 50 and ten?

20 A. Yes.

21 Q. And on none of those occasions did you ever  
22 actually witness physically the patient, right?

23 MR. MYERS: Object to the form.

24 A. A few times they had to come in because I was  
25 concerned. I mean, I can think of maybe a handful of

1 times where I said send them over because I need to see  
2 if they had too many medical problems that I was  
3 concerned with, I would go through that and do an exam,  
4 but usually most of the time they did well.

5 Q. Okay. So in what, bear with me, what percentage  
6 of these people who needed some sedatives did you  
7 actually meet with in person?

8 A. I'd say a quarter of them, 25 percent.

9 Q. Okay, 25 percent. And the question, you had the  
10 question earlier, you never received payment for this  
11 service even, even in those circumstances where you  
12 actually had to evaluate the patient?

13 A. No. I, I think we couldn't really code on that  
14 and sometimes I, I don't know if we would ever get paid  
15 on it, so we would write it off.

16 Q. You wouldn't bill Spine Imaging though for that  
17 service?

18 A. No.

19 Q. And you weren't paid or --

20 A. I think the person would have to directly bill  
21 the insurance company, but I don't think the insurance  
22 company would pay.

23 Q. What about, last question on this topic, when  
24 some of the patients that needed this sedative treatment  
25 were actually patients of yours, you said some were from

Alfonso Morales, M.D., 4/24/2012

Page: 229

1 other referral sources but some were yours?

2 A. Yeah, a lot of them were ours.

3 Q. And on those occasions where you had your own  
4 Central Medical patient who ends up at the MRI and is  
5 nervous or what have you and you get this fax and you go  
6 through this machination of sedating them, you would  
7 agree we would expect to find that fax and any other  
8 documentation of that episode in the patient's chart,  
9 right?

10 A. Yes.

11 Q. That would end up in the chart?

12 A. It's in the chart, yes.

13 Q. That's it. I have nothing further. Thank you,  
14 Doctor.

15 FURTHER EXAMINATION

16 BY MR. MORAN:

17 Q. I just have a couple more here. Going back to  
18 this issue of, of prescription of medication, Doctor, to  
19 patients that were not being treated by you. You would  
20 rely on the information that was provided to you by a  
21 tech over the phone or pursuant to a fax, correct?

22 A. Yes.

23 Q. You would rely on that tech then to properly  
24 relay to the patient what kind of medication was going  
25 to be administered to the patient?

1 A. Yes.

2 Q. You would rely on the tech to properly advise  
3 the patient as to potential complications that the  
4 medication might have?

5 MR. MYERS: Object to the form.

6 A. Was I, can you repeat that.

7 Q. Would you rely on the tech to provide  
8 information to the patient as to potential  
9 complications?

10 MR. MYERS: Object to form.

11 A. Certain history, yes.

12 Q. But --

13 A. Get a certain history out of it.

14 Q. But in terms of communicating to the patient,  
15 you're relying on the tech to be the conduit of  
16 information to that patient as well?

17 A. Yes.

18 MR. MYERS: Object to form.

19 Q. It's not just the patient's information coming  
20 to you, but you providing information to the tech which  
21 in turn is relayed to the patient, correct?

22 MR. MYERS: Object to the form.

23 A. Yes.

24 Q. And that might include complications from the  
25 medication?

1 MR. MYERS: Object to the form.

2 A. If we think there were any complications or  
3 things that were sensitive, I would have them be  
4 checked.

5 Q. But generally speaking, most medication has  
6 stated indications and complications, correct?

7 A. Right.

8 Q. And would you rely on the tech to relay the  
9 typical, this could cause you nausea, this could cause  
10 you dizziness, that type of thing?

11 MR. MYERS: Object to the form.

12 A. Including the scan, yes. And the MRI scan you  
13 can be claustrophobic, you can pass out, you can have  
14 noise, you can have problems with the scan. Yes,  
15 there's, it's their responsibility to talk to them about  
16 this.

17 Q. And so at least in terms of when, when you were  
18 prescribing medication to patients that weren't your  
19 patients that you hadn't seen, you were relying on the  
20 tech to provide this medical information to the  
21 patients?

22 MR. MYERS: Same objections.

23 A. Yes.

24 Q. And then you would also rely on the tech to  
25 provide information as to the purpose behind the

Alfonso Morales, M.D., 4/24/2012

Page: 232

1 medication?

2 A. Yes.

3 Q. I have no further questions.

4 MR. LOWDEN: Mr. Myers, I don't believe  
5 there's any further questions.

6 MR. MYERS: Okay. The witness will read  
7 and sign.

8 (Proceedings concluded at 2:51 p.m.)  
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**Alfonso Morales, M.D., 4/24/2012**

Page: 233

## REPORTER'S CERTIFICATE

[illegible]

I hereby certify that I reported the deposition of Alfonso Morales on the 24th day of April 2012, in Minneapolis, Minnesota, and that the witness was by me first duly sworn to tell the whole truth;

That the testimony was transcribed by me and is a true record of the testimony of the witness;

That the cost of the original has been charged to the party who noticed the deposition, and that all parties who ordered copies have been charged at the same rate for such copies;

That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel;

That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality;

That the right to read and sign the deposition by the witness was reserved.

WITNESS MY HAND AND SEAL THIS 24th day of April  
2012.

Kelly E. Ziller

Kelley E. Zilles, RPR  
Notary Public, Washington County, Minnesota  
My commission expires 1-31-2015